

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**CHARLES E. FLEMONS**

**PLAINTIFF**

**V.**

**NO. 3:15CV0039-JMV**

**COMMISSIONER OF SOCIAL SECURITY**

**DEFENDANT**

**FINAL JUDGMENT**

This cause is before the Court on Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration regarding claims for a period of disability and Disability Insurance Benefits and Supplemental Security Income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The Court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the Court's ruling from the bench during oral argument, the Court finds the ALJ's residual functional capacity assessment ("RFC") is not supported by substantial evidence in the record. The ALJ determined the claimant was capable of performing work at the light exertional level without fully developing the record with regard to the issue of the claimant's need for a cane. The ALJ focused on the fact that the claimant requested a cane; however, Veterans Administration medical records indicate the claimant's treating physician referred him to a physical therapist, who in turn assessed him for a cane and issued one in September 2011. Moreover, there are numerous reports of falls by the claimant in those records and notations that the claimant ambulated with a cane. Accordingly, on remand, the ALJ shall

order a consultative physical examination of the claimant, which shall include an assessment of each of his alleged impairments. Said examination shall also include an assessment of the extent of the claimant's need for a cane as it relates to performing work activity. The ALJ shall then reconsider the claimant's RFC—making certain to first perform a function-by-function assessment of the claimant's capacity to perform sustained work activity—and obtain supplemental vocational expert testimony if necessary. The ALJ may conduct any additional proceedings not inconsistent with this order.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that this case is **REMANDED** for further proceedings.

This, the 23rd day of December, 2015.

/s/ Jane M. Virden  
U. S. MAGISTRATE JUDGE